

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|--------------------|---|-----------------------|
| MERCK & CO., INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 06-230 (GMS) |
| |) | |
| APOTEX, INC., |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

STIPULATION AND [PROPOSED] ORDER

WHEREAS in a teleconference with the Court on December 7, 2006, the Court addressed the briefing in connection with Defendant Apotex, Inc.'s Motion for Leave to File its First Amended Answer, Affirmative Defenses, and Counterclaims (D.I. 47);

WHEREAS the Court in that teleconference allowed Apotex to file a 35-page reply brief (due on December 8, 2006, which has now been filed) and allowed Merck the opportunity to file a surreply of 17 pages in opposition to Apotex's reply brief;

WHEREAS Merck requested ten calendar days for its surreply which the Court allowed but now needs until December 21, 2006 for its surreply in order to address fully the arguments in Apotex's reply brief and because Merck's lead antitrust counsel unexpectedly has had to travel abroad during the time of preparation of Merck's surreply;

WHEREAS Merck has requested the agreement of Apotex to an extension from December 18 to December 21 for the filing of Merck's surreply and Apotex has agreed;

IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that the date by which Plaintiff Merck & Co., Inc. may file and serve its surreply is extended to December 21, 2006.

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Attorneys for Plaintiff Merck & Co., Inc.

Attorneys for Defendant Apotex, Inc.

Dated: December 15, 2006

SO ORDERED this ____ day of December, 2006.

UNITED STATES DISTRICT JUDGE

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